

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

UNITED STATES OF AMERICA,)	CASE NO: 3:18-CR-00024-1
)	
Plaintiff,)	CRIMINAL
)	
vs.)	Galveston, Texas
)	
JOHN DAVID KNOWLTON,)	Monday, December 16, 2019
)	
Defendant.)	(1:42 p.m. to 2:34 p.m.)

SENTENCING

BEFORE THE HONORABLE GEORGE C. HANKS, JR.,
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For Plaintiff:	ZAHRA J. FENELON, ESQ. U.S. Attorney's Office 1000 Louisiana St., Suite 2300 Houston, TX 77002
For Defendant:	PHILIP G. GALLAGHER, ESQ. Federal Public Defender's Office 440 Louisiana St., Suite 1350 Houston, TX 77002
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1 Galveston, Texas; Monday, December 16, 2019; 1:42 p.m.

2 (Call to order)

3 **THE COURT:** Counsel, Mr. Gallagher, and prosecution,
4 if you can please approach and just introduce yourselves to the
5 Court and then state the parties you represent, starting with
6 the Government.

7 **MS. FENELON:** Good afternoon, your Honor. Zahra
8 Fenelon for the United States.

9 **THE COURT:** Okay.

10 **MR. GALLAGHER:** I'm sorry, Philip Gallagher for
11 Mr. Knowlton, your Honor.

12 **THE COURT:** Okay. Mr. Knowlton, welcome, sir.

13 **THE DEFENDANT:** Yes, sir.

14 **THE COURT:** I'm sorry, Mr. Knowlton, that you had to
15 wait so long. This was a very long morning, and I know that
16 you've been back and forth and I apologize for it.

17 **THE DEFENDANT:** I have no place else to be, sir.

18 **THE COURT:** Okay, well I apologize, sir. We're here,
19 Mr. Knowlton, for purposes of your sentencing in the matter
20 that's before the Court. And before I get started, I need to
21 ask -- well first go through with you and all the counsel
22 present all the things I've reviewed in getting ready for this
23 sentencing. I've reviewed the indictment, the PSR,
24 Mr. Knowlton, your objections to the PSR. I've reviewed in
25 detail your sentencing memorandum that Mr. Gallagher prepared

1 on your behalf. I reviewed the Government's response to your
2 objections, and then the Government's amended response to your
3 objections to the PSR. And then I've reviewed the addendum to
4 the PSR. And then the Government filed a supplemental
5 sentencing memorandum in this matter which I received on --

6 **MR. GALLAGHER:** I think that might be ours, your
7 Honor.

8 **THE COURT:** Oh, I'm sorry, it was -- sorry, your
9 supplement which I received just recently. Let me make sure
10 the date. And then that's the last thing I have in the file.
11 So is there anything else, Mr. Gallagher, that you think that I
12 should have reviewed that I've not received?

13 **MR. GALLAGHER:** No. I think this (indisc.) include
14 the addendum, your Honor. I just want to make -- there were
15 three requests for restitution. I assume the Court -- and,
16 well, finally, one, I want to make sure the Court has them;
17 two, we've discussed with the Government we're going to ask the
18 Court to defer dealing with those --

19 **THE COURT:** Okay.

20 **MR. GALLAGHER:** -- for 60 days as you -- anyway, I do
21 want to make sure the Court has them because you should.

22 **THE COURT:** Okay, I do -- I did -- I do have them but
23 I know if I guess we're going to consider them this afternoon.
24 I guess not.

25 **MR. GALLAGHER:** We've agreed if the Court will

1 consent to (indisc.) the lawyers who filed those (indisc.)
2 frankly consultation with the defense attorney to see if a
3 resolution could be worked out --

4 **THE COURT:** Okay.

5 **MR. GALLAGHER:** -- and these were given to me last
6 week and I simply haven't had time to do that, so I was going
7 to request for 60 days --

8 **THE COURT:** Okay.

9 **MR. GALLAGHER:** -- which the -- as you know, the
10 statute allows, and the Government was unopposed to.

11 **THE COURT:** Okay, great, then we'll do that, we'll
12 wait 60 days.

13 **MR. GALLAGHER:** Thank you.

14 **THE COURT:** Other than those things, is there
15 anything else that you believe I should have reviewed?

16 **MR. GALLAGHER:** No, your Honor.

17 **THE COURT:** Okay. Ms. Fenelon, do you have any
18 witnesses or victims present in the courtroom today?

19 **MS. FENELON:** No, your Honor, we do not.

20 **THE COURT:** And are you expecting an evidentiary
21 hearing?

22 **MS. FENELON:** No, your Honor.

23 **THE COURT:** Okay. And, Mr. Gallagher, have you and
24 Mr. Knowlton read and discussed the Presentence Report in this
25 matter?

1 **MR. GALLAGHER:** We have.

2 **THE COURT:** Okay, and have you discussed the
3 objections?

4 **MR. GALLAGHER:** Yes, we have.

5 **THE COURT:** And are you expecting an evidentiary
6 hearing?

7 **MR. GALLAGHER:** No, your Honor.

8 **THE COURT:** Okay. And do you have any witnesses
9 present in the courtroom?

10 **MR. GALLAGHER:** No, your Honor.

11 **THE COURT:** Okay. Before the Court determines the
12 guideline provisions in this case, I need to resolve the
13 objections that have been filed on your behalf, Mr. Knowlton.
14 With respect to the objection to paragraph 24, the objection's
15 overruled. Respectfully, Mr. Knowlton understands how peer-to-
16 peer networks work and I think that that was an appropriate
17 reference in the PSR. And I think in the addendum, with
18 respect to Mr. Knowlton's honorable service in the Navy, I
19 think the addendum has been amended to reflect that.

20 **MR. GALLAGHER:** Correct, it --

21 **THE COURT:** Okay.

22 **MR. GALLAGHER:** -- I don't think any -- right. And
23 you also have his discharge record in my sentencing memorandum
24 (indisc.)

25 **THE COURT:** Yes, I did. So with that, are there any

1 other objections that the Court needs to rule on in this matter
2 with respect to the PSR?

3 **MR. GALLAGHER:** No. I -- well, I -- just so it's
4 clear, your Honor, I think your -- if you -- with that ruling,
5 I think your ruling on my objection or my request to the two-
6 level reduction at 2G2.2(b)(1), I think --

7 **THE COURT:** Yeah.

8 **MR. GALLAGHER:** -- that is implicit in your ruling
9 but I -- just so that's clear. I'm --

10 **THE COURT:** Yes.

11 **MR. GALLAGHER:** I don't wish to concede it but I
12 understand the Court's ruling on that.

13 **THE COURT:** Definitely. I -- just to be clear, the
14 request for a decrease pursuant to USSG Section 2G2.2(b)(1) is
15 respectfully denied.

16 **MR. GALLAGHER:** Thank you. Then no other guidelines
17 rulings are necessary, your Honor, I believe.

18 **THE COURT:** Okay. Having read and resolved the
19 objections to the Presentence Report in this case, the Court
20 finds that the following guideline provisions are applicable to
21 your case, Mr. Knowlton. The Total Offense Level is 37. The
22 Criminal History Category is One. That provides a guideline
23 provision range of 210 to 262 months. Probation, you're not
24 eligible for. Supervised release, up to life. A fine of
25 40,000 to \$400,000. Restitution, undetermined. And a special

1 assessment of \$200. Based on my ruling on the objections, is
2 this the correct calculation of the guideline provisions in
3 this case?

4 **MR. GALLAGHER:** Yes, your Honor.

5 **MS. FENELON:** Yes, your Honor.

6 **THE COURT:** Ms. Fenelon. Now, my understanding is
7 the Government has not filed a request for downward departure
8 and the only request for downward departure which referred to
9 the request for downward departure that had been filed
10 regarding the peer-to-peer network issue, that has already been
11 denied. And the Government doesn't have any request for
12 downward departure under the statute; is that correct?

13 **MS. FENELON:** That's correct, your Honor.

14 **THE COURT:** Okay. So after calculating the
15 guidelines and ruling on the request for departures, and
16 hearing argument, I must now consider the relevant factors set
17 out by Congress at 18 USC, Section 3553(a), and ensure that I
18 impose a sentence that is sufficient but not greater than
19 necessary to comply with the purposes of sentencing. These
20 purpose include the need for the sentence, reflect the
21 seriousness of the crime, to promote respect for the law, and
22 to provide just punishment for the offense. The sentence
23 should also deter criminal conduct, protect the public from
24 future crime by the Defendant, and promote rehabilitation. In
25 addition to the guidelines and policy statements, I must

1 consider the nature and circumstances of the offense, the
2 history and characteristics of the Defendant, the need to avoid
3 unwarranted sentencing disparities among similarly situated
4 defendants, and the types of sentences available.

5 Mr. Gallagher, I have reviewed your sentencing memorandum and
6 recommendations, but at this time do you wish to argue about
7 the application of the factors set forth in Section 3553(a),
8 request a variance, or otherwise make a sentencing
9 recommendation in this matter?

10 **MR. GALLAGHER:** Yes, your Honor.

11 **THE COURT:** And you may proceed.

12 **MR. GALLAGHER:** Thank you. As you know, I've
13 (indisc.) sentence far below that recommended by the sentencing
14 guidelines in this matter which at the low end is about 17
15 years in custody. I think there are many reasons for this.
16 First is as I've gone through in the sentencing memorandum,
17 Mr. Knowlton's personal characteristics and history. He is
18 someone who he's 57 years old now. This is his first
19 interaction with the criminal law. He has been very productive
20 in his life. He served his country honorably for ten years and
21 was honorably discharged. After that, he's been married for
22 decades and has raised three adult children. His wife attended
23 the trial. She's not here now. Since they lost the house with
24 incarceration and loss of job opportunities, she's moved with
25 her family to New Mexico. But she -- I spoke with her just

1 last week. And even after leaving the military, he continued
2 to work and support his family and raise -- be a productive
3 member of his business and the community. All of that speak
4 very well of him. I think those both as I said speak well of
5 him and I also show -- think that and in addition to his age
6 show that the risk of recidivism is quite low in this case.
7 And we've also provided a psychological assessment which goes
8 over some of those factors. Mr. Knowlton is someone who does
9 have a need for counseling both for specifically the sexual
10 conduct in this case but other issues such as depression and
11 self-esteem and kind of social isolation which aggravated the
12 isolated nature of this conduct (indisc.) you know, being in
13 the room alone surfing the web and accessing things they should
14 not access and thereby causing harm to other people by doing
15 that. And Mr. Knowlton is someone who would be a good
16 candidate for that treatment. Obviously some of that will come
17 in custody and some of that will come out hopefully should he
18 make it to that.

19 Also, I think the sentence -- a sentence well below
20 the guidelines is in line with what's been imposed in other
21 cases. We've given you statistics showing that sentences below
22 the guidelines are imposed in over 60 percent of cases under
23 this guideline. The Government has I think introduced evidence
24 (indisc.) showing I think a sentence of -- for people sentenced
25 to receipt convictions is about -- I think the average sentence

1 is about 120 months, I believe. But, again, that would be
2 again lower than the guidelines range in most of these cases.
3 Even had Mr. Knowlton pleaded guilty, his guidelines would have
4 been above that. His guidelines would have been 151 months and
5 up. So a sentence as low within the guidelines are
6 completely -- or lower than that recommended by the guidelines,
7 they're completely consistent with courts' practices around the
8 country, your Honor.

9 And I think -- and punishment is bound to include
10 incarceration in this case. That will include important part
11 of both deterrence and rehabilitation. Someone contemplating
12 this kind of behavior I think believes that they won't get
13 caught. That's the main thing. It's not a calculus that if I
14 get caught, I'm going to get a slap on the wrist. It's the
15 calculus that I am looking on my computer in my room, this is
16 something that's going to escape notice. A sentence of five
17 years sends a message that the punishment is severe, just as
18 much as a sentence for 17 years sends a message that punishment
19 is severe. Either sentence is one takes people -- put people
20 in custody for years and years that as in this case, one will
21 certainly result in loss of family, cause a severe hardships to
22 their -- sorry, loss of home causes severe disruption to their
23 family, all of which are punishments which any length of -- any
24 significant length of imprisonment will carry along with it.
25 And also the steps in this case I think show that Mr. Knowlton

1 has grown to appreciate the wrongness of his conduct. When
2 first confronted by agents, I think Mr. Knowlton didn't quite
3 understand the severity of his conduct. You can -- when
4 they're initially interviewing him on that morning when they
5 came with a search warrant, agents challenged him by saying,
6 well, what would you think if this had been your grandchild or
7 something depicted in these pictures. And that's when you can
8 hear Mr. Knowlton beginning to grasp the wrongness of this harm
9 inflicted by this. He has since had to explain this to his
10 family. He has just this past week received and read these
11 victim impact statements which are extraordinarily moving and
12 not something someone would have seen beforehand. And he's
13 written to the Court to express some of his understanding of
14 that. All those factors I think show that a sentence far below
15 the guidelines in this case are warranted, your Honor.
16 Certainly no risk -- I think any risk to others posed by him is
17 de minimis. I think the main thing is as the Government has
18 said in this and other cases is that deterrence and to provide
19 some vindication to victims. But a sentence far less than 17
20 years will serve those purposes of the statute, your Honor.

21 **THE COURT:** Thank you, Mr. Gallagher. Ms. Fenelon,
22 do you wish to argue?

23 **MS. FENELON:** Yes, your Honor, if I may.

24 **THE COURT:** Yes.

25 **MS. FENELON:** Your Honor, in regards to being part of

1 the guideline sentence range, it's not just deterrence, it's
2 not just vindication of victims, as counsel stated. It is to
3 actually assess the correct punishment for the crime or crimes
4 that were done. We have distribution, receipt, and possession
5 of child pornography, crimes that this Defendant did not take
6 responsibility. And the Court heard testimony and had to
7 listen to evidence because we did go forth on a bench trial in
8 regards to him having not just one device, not just one time;
9 18 different devices, your Honor, containing child pornography.
10 Eighteen. A total of 22,144 images. That's 3,469 images and
11 249 videos of child pornography. What Defendant stated to law
12 enforcement when they came and talked to him in regards to his
13 child pornography collection was, I was bored, I did it out of
14 curiosity. Counsel now states that he understands what the
15 severity of his conduct was and it only took until now. When
16 you are seeing children being raped, at some point as a adult
17 male who as counsel stated has led a productive life, that has
18 served in the military, that has a wife and children and
19 grandchildren, that has worked a job, that has been out in our
20 community, that should be a given. That should be something
21 that innately you know when you look at it that it is wrong.
22 But that's not what the Defendant stated. He didn't think that
23 it was wrong because it was so easily accessible. And not only
24 was it so easily accessible, he made sure that he got to save
25 it. He took laptops and computers from work to make sure that

1 he had enough devices so he could save his collection of child
2 pornography. He waited until all the individuals at the house,
3 including his grandchildren, were asleep so he could get onto
4 these websites, so he could get onto the places where he could
5 find child pornography. That is what he did. The guidelines
6 are there in order to assist in being able to assess a
7 punishment for the severity of these types of crimes of
8 violence.

9 I won't go through all the victim impact statements.
10 I submitted them, parts of them for the Court to read in my
11 sentencing memorandum. This man that's 57 years old could have
12 been a complete, you know, productive member of society. But
13 instead, he decided to look at child pornography. He decided
14 to download it, receive it, and thereby distributing it by
15 being on these peer-to-peer websites, being around those
16 individuals that are likeminded. It is important to not just
17 deter others. As we talked about in the last case, it's
18 important to not just deter those other individuals that are
19 looking at this case but also to assess a punishment that is
20 just for the case that we are looking at. And the images and
21 the videos of those victims that are part of this particular
22 case and what this Defendant did and what -- and those every
23 day times as I stated before that those victims have to deal
24 with looking and being in their normal capacity walking by and
25 seeing others and not knowing whether or not they've seen

1 images and videos of them being raped. This wasn't a lapse in
2 judgment. This was an entire collection of what he wants, what
3 his interest is. And he didn't take responsibility. And
4 that's his right to not do so. It is his right to go to trial.
5 It is his right to put the Government to its burden. But he's
6 now saying to the Court, give me the mandatory minimum, even
7 though I have 22,144 images. We can talk about statistics all
8 day long, your Honor, but the Court is not tasked with applying
9 statistical analysis. That's not what we look to. That's why
10 we have specific sentencing hearings, that's why this Court
11 asks defense and the Government, do you have any argument in
12 particular to this case; because that's what's important. We
13 do look at deterrence, we do look at vindication for the
14 victims. But we also look at the actions of the individual
15 that committed the crime. And the actions of this individual
16 with 18 devices and more than 20,000 images reflects a
17 situation in which a guideline sentence is the only applicable
18 sentence that should be there. And we ask for 262 months, the
19 top of the guideline sentence, because that is what is just in
20 this case. Thank you, your Honor.

21 **THE COURT:** Thank you, Ms. Fenelon. Mr. Knowlton,
22 you have a right to make a statement or present any information
23 you wish to mitigate that sentence. I have reviewed the letter
24 that you read -- that you wrote and I read it very, very
25 carefully, but is there anything else that you'd like to add in

1 this matter? Because I'd like to hear from you if you would.

2 **THE DEFENDANT:** Yes, sir. First I'd like to
3 apologize to the Court and to the victims. I'm sorry that my
4 actions have caused wounds and that I'd hoped that should have
5 been healed from the victims and everything like that. It was
6 not my intention to harm anyone, and for that I am sorry and I
7 ask for forgiveness. My life and my family's life is forever
8 changed. There is nothing that can be done about that. That
9 is my fault. I put my family through this. All I can do is
10 hopefully move forward and try to rebuild some sort of a life
11 and future. But it won't be the way my wife and I had planned
12 years -- 37 years ago of what we would do, what we talked about
13 when we first married. It really doesn't seem that long ago
14 but there, you know, it has been 37 years that I've been
15 married to her. For all the loss and the hurt that I've caused
16 my family, if my death would alleviate any of their pain and
17 suffering, I would gladly give my life for that, just like I
18 would for my grandchildren or my kids even. That's all that
19 really matters to me. Any kind of sentence like that is
20 completely kind of ridiculous. That's a death penalty.
21 Anything over five or six years is a death penalty. Really? I
22 mean, I'm sorry, Judge, that's just -- that's cruel. I would
23 like to ensure the Court that this lapse of my character will
24 never be repeated again. I only have a few more years of
25 gainful employment left before my age and my health stop me

1 from working in my trained profession. So I ask the Court for
2 mercy and compassion so that I can try to repair and fulfill
3 some of the promises that I have made to my wife before my time
4 is up on this world. And that is it, sir.

5 **THE COURT:** Thank you, Mr. Knowlton. Counsel, I know
6 it's been a long morning and afternoon. I'm just going to take
7 just another brief recess and then we'll get started up in just
8 a second.

9 **MR. GALLAGHER:** Yes, your Honor.

10 **THE COURT:** Okay.

11 **MS. FENELON:** Thank you, your Honor.

12 **THE CLERK:** All rise.

13 **(Recess taken from 2:04 p.m. to 2:21 p.m.)**

14 **THE CLERK:** All rise.

15 **THE COURT:** Please be seated, everyone. The parties
16 in the last hearing can please approach. Mr. Knowlton, I've
17 looked at everything that's been presented to me very, very
18 carefully. And I do believe that you're sincere in your --
19 that you are in your apology. I know that this has cost you
20 your family and your career possibly at this point. I
21 understand that. As you heard me mention earlier, I have two
22 concerns that I need to be focused on here: one is not just
23 doing what's right for you but also for the victims, and also
24 to send a message regarding the severity of this offense that
25 you committed. The number of images that you had, the storage,

1 the way that you kept them all, that's a very serious offense.
2 It wasn't just a one-time mistake that you didn't know better.
3 And I have a responsibility to the victims. I mean, this is
4 not a victimless crime. You understand that I'm sure after
5 having read those victim impact statements. And as a judge,
6 I'm the only one that can speak for those victims and I'm the
7 only one that can give them justice with respect to what
8 they've suffered and to make sure that no one else is tempted
9 to do what you did with respect to these images and collecting
10 these images.

11 With that said, I am going to -- in light of your
12 military service, I am going to vary downward in the guideline
13 range in this case because I agree with Mr. Gallagher, that the
14 minimum guidelines in this case exceed what is necessary for
15 purposes of deterrence and for respect for the rights of the
16 victims in this case. So I'm going to depart -- I'm going to
17 vary downward in your sentence from the guideline provisions in
18 this matter.

19 Mr. Knowlton, pursuant to the Sentencing Reform Act
20 of 1984, it is the judgment of this Court that the Defendant,
21 John David Knowlton, is hereby committed to the custody of the
22 Bureau of Prisons to be imprisoned for a term of 144 months as
23 to Count One and to 120 months as to Count Two, all to be
24 served concurrently for a total of 144 months. Upon release
25 from imprisonment, you should be placed on supervised release

1 for a term of 15 years. The term consists of 15 years as to
2 each of Counts One and Two to run concurrently.

3 Within 72 hours of release from the custody of the
4 Bureau of Prisons, you shall report in person to the probation
5 office in the district to which the Defendant is released.
6 While on supervised release, you shall not commit another
7 Federal, State, or local crime. And you shall comply with the
8 standard conditions that have been adopted by this Court under
9 General Order Number H-2017-1, abide by any mandatory
10 conditions required by law, and to comply with the following
11 additional conditions. You shall comply with the requirements
12 of the Sex Offender Registration and Notification Act as
13 directed by the probation officer, the Bureau of Prisons, or
14 any sex offender registration agency in which you reside, work,
15 or a student or convicted of a qualifying offense. You must
16 participate in a sex offense-specific treatment program and
17 follow the rules and regulations of that program. The
18 probation officer will supervise your participation in the
19 program and you must pay the cost of that program if you're
20 financially able to do so. You must not view or possess any
21 visual depiction, including any photograph, film, picture, or
22 computer-generated image or picture, whether or not produced by
23 electronic, mechanical, or other means of sexually explicit
24 conduct as defined by law. You must not possess and/or use
25 computers or other electronic communications or data storage

1 devices or media without the prior approval of the probation
2 officer. If approved, you shall consent to the ongoing
3 monitoring of all devices. To ensure compliance with the
4 computer monitoring, you must allow the probation officer to
5 conduct initial and periodic unannounced searches of any
6 computers subject to computer monitoring. These searches shall
7 be conducted for purposes of determining whether the computer
8 contains any prohibited data prior to the installation of the
9 monitoring software to determine whether the monitoring
10 software is functioning effectively after its installation and
11 to determine whether or not there have been attempts to
12 circumvent the monitoring software after its installation. You
13 must warn other people who use these computers that the
14 computers may be subject to searches pursuant to this
15 condition. You agree to pay the cost of the hardware and/or
16 software monitoring system, including any ongoing monthly
17 service cost in accordance with your ability to pay as
18 determined by the probation officer. You must participate in a
19 mental health treatment program and follow the rules and
20 regulations of that program. The probation officer in
21 consultation with the treatment provider will supervise your
22 participation in the program, including the provider, location,
23 modality, duration, and intensity, and you must pay the cost of
24 that program if you're financially able to do so. At this
25 time, are you -- is the Government claiming or seeking

1 restitution?

2 **MS. FENELON:** Yes, your Honor, we are. And as stated
3 earlier, we ask that we have time, at least 60 days, in order
4 for us to convene and talk about the restitution if counsel
5 wants to speak to the attorneys for the victims themselves as
6 well to see if there can be a negotiation that -- an agreement
7 that we can meet.

8 **THE COURT:** Okay. And pursuant, Mr. Knowlton, to 18
9 USC, Section 3664(d)(5), if a victim's losses are not
10 ascertainable by the date that is ten days prior to sentencing,
11 the attorney for the Government or the probation officer shall
12 inform the Court and the Court shall set a date for a final
13 determination of the victim's losses, not to exceed 90 days
14 after sentencing. Such order may be granted only upon a
15 showing of good cause for the failure to include such losses in
16 the initial claim for restitution and/or relief. It is further
17 ordered that Defendant shall pay the United States a special
18 assessment of \$200. And the Court finds that you do not have
19 the ability to pay a fine and the Court will waive a fine in
20 this case.

21 The Court finds that you are indigent and the JBTA
22 assessment is waived. Having assessed the ability to pay,
23 payment of the total criminal monetary penalties shall be due
24 as follows: the Defendant shall make a payment of \$200,
25 payable immediately. Payment is to be made through the United

1 States District Clerk, Southern District of Texas. Payment of
2 criminal monetary penalties shall be due during the period of
3 imprisonment.

4 And just to make the record clear also, Mr. Knowlton,
5 it's your military service and your age in this matter I'm -- I
6 consider as factors warranting a downward variance in the
7 minimum in this case. So that's why I am -- one second. For
8 the record, that's why I am departing below the guideline
9 provisions in this case of 210 months and I'm assessing 144
10 months for those two, primarily those two reasons.

11 Mr. Knowlton, you have the right to appeal my
12 sentence. I am going to give you a written notice of your
13 rights to appeal. If you could just look at those and make
14 sure that you understand what your rights are. If you do
15 understand those rights, then if you could just sign this
16 document and then I'll enter it into the record.

17 **THE DEFENDANT:** Yes, sir.

18 **(Defendant/counsel confer)**

19 **MR. GALLAGHER:** (Indisc.)

20 **THE COURT:** Okay, yes. The record will reflect that
21 you have signed the notice of your rights to appeal.

22 As a housekeeping matter, Ms. Fenelon, I received the
23 exhibit list from the trial. Was that to be filed in the
24 record of this matter or --

25 **MS. FENELON:** Is that -- we didn't file anything

1 recently, your Honor, so that would have probably been during
2 the time of the trial. I think --

3 **THE COURT:** Okay.

4 **MS. FENELON:** -- we had the evidence was we took the
5 evidence back because they were large devices. I think maybe
6 that's the list of the things that --

7 **THE COURT:** Okay.

8 **MS. FENELON:** -- we have in our possession.

9 **THE COURT:** Okay.

10 **MS. FENELON:** We will go ahead and file it if it
11 hasn't --

12 **THE COURT:** Can you go ahead and just file it --

13 **MS. FENELON:** Absolutely.

14 **THE COURT:** -- for purposes if there's an appeal in
15 this matter so that --

16 **MS. FENELON:** Certainly, your Honor.

17 **THE COURT:** -- this was --

18 **MS. FENELON:** We apologize that there wasn't one that
19 was --

20 **THE COURT:** Oh, no problem.

21 **MS. FENELON:** -- put into the record. And, your
22 Honor, as also a housekeeping matter, this is a final order of
23 forfeiture.

24 **THE COURT:** Okay.

25 **MR. GALLAGHER:** There's no opposition to that.

1 **THE COURT:** Okay.

2 **MS. FENELON:** Thank you.

3 **(Pause)**

4 **THE COURT:** And let the record reflect that has been
5 signed.

6 Mr. Knowlton, I know that this has been a very
7 difficult day for you, a very difficult process. I know that
8 you've lost your livelihood and your family over the choices
9 you've made. But in light of your service and your age, I did
10 not sentence you to the minimums in this matter because I think
11 that you deserve the opportunity to -- after you've served your
12 sentence, you deserve the opportunity to try to move forward
13 with your life as best you can and make different choices in
14 the future. I know it's going to be very difficult. I
15 understand that your wife has moved to New Mexico. I will make
16 a recommendation as you heard in the last case that you be
17 housed in a facility closest to your family so if you could --
18 so that they can help support you through the difficult times
19 ahead. Please don't push them away because you're going to
20 need them. I read your letter very carefully and I do believe
21 that you understand now the gravity of what you did and that
22 you are contrite and humble about what you did but
23 unfortunately, that doesn't change the impact of what you did
24 and how it's affected others. And as you heard me mention
25 earlier, I've got a responsibility to the victims who were

1 harmed by this crime that you committed because it was not a
2 victimless crime. And I also have a responsibility to the
3 community to make sure that others don't follow in your
4 footsteps and to justly punish the crime that you committed
5 under the facts of this particular case. So that's why I'm
6 entering the sentence that I'm entering into.

7 Your life has to take -- you have to take a different
8 journey now. It's different from the journey that you had
9 anticipated but it can go forward. But whether or not it goes
10 forward is up to you. And I encourage you, while you're
11 serving your sentence, to seek the skills that you need so that
12 when you are released, that you can go on with your life and
13 your career. It may be different. It probably will be
14 different from what you're doing now but you will be able to
15 proceed with your life.

16 Good luck to you, Mr. Knowlton.

17 **MR. GALLAGHER:** Your Honor, just to be specific in
18 the recommendation, we'd request if possible that he be placed
19 in either Bastrop or Seagoville which I believe in closest
20 facilities to his grown children which have the sex offender --
21 the BOP sex offender treatment.

22 **THE COURT:** I'll make that recommendation.

23 **MR. GALLAGHER:** Thank you, your Honor.

24 **THE COURT:** Is there anything further from either
25 side?

1 **MR. GALLAGHER:** No, your Honor.

2 **MS. FENELON:** Nothing further, your Honor.

3 **THE COURT:** Okay. Mr. Knowlton, good luck to you,
4 sir.

5 **THE DEFENDANT:** Yes, sir.

6 **MS. FENELON:** And we'll have this filed by today,
7 your Honor.

8 **THE COURT:** That will be great. Thank you.

9 **MS. FENELON:** And I think that's all I have. And may
10 I be excused?

11 **THE COURT:** You may be excused. Thank you for -- I
12 know it's been a long morning, Ms. Fenelon. Mr. Gallagher,
13 thank you all.

14 **MR. GALLAGHER:** Thank you, your Honor.

15 **(This proceeding was adjourned at 2:34 p.m.)**

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CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

A handwritten signature in cursive script, appearing to read "Toni Hudson", is positioned above a horizontal line.

January 29, 2020

TONI HUDSON, TRANSCRIBER